

MEMO# 7924

June 4, 1996

SEC STAFF ALLOWS INFORMATION ABOUT FUND PORTFOLIO TRANSACTIONS ON THE INTERNET

1 See Munder Capital Management, pub. avail. May 17, 1996. June 4, 1996 TO: DIRECT MARKETING COMMITTEE No. 15-96 OPERATIONS MEMBERS No. 23-96 SALES FORCE MARKETING COMMITTEE No. 17-96 RE: SEC STAFF ALLOWS INFORMATION ABOUT FUND PORTFOLIO TRANSACTIONS ON THE INTERNET

The Division of Investment Management of the Securities and Exchange Commission recently issued a no-action letter to a registered investment adviser, allowing the adviser and the funds that it advises to provide information via the Internet about the funds recent portfolio purchase and sale transactions. A copy of the no-action letter is attached.¹ The investment adviser requested no-action relief under Rule 206(4)-1 under the Investment Advisers Act of 1940, to allow the adviser and the funds that it advises to publish information on the portfolio transactions of each of the funds on an Internet site. Rule 206(4)-1 deems certain investment adviser advertising practices to be fraudulent, deceptive or manipulative, including advertisements that refer to the adviser's past specific recommendations that were or would have been profitable to any person. According to the no-action letter, the Internet site will contain information on all new securities added to or eliminated from the funds' portfolios and a discussion of each new portfolio security, along with the reasons the investment adviser either purchased or sold the security. The information will be updated on a monthly basis and made available at least 15 days after the end of each month. The site also will contain a disclaimer, which states, in part, that the portfolio information should not be considered as a recommendation to purchase or sell a particular security and that there is no assurance that certain securities will remain in or out of the portfolios. In granting no-action relief, the staff concluded that, as presently configured, the portfolio transaction information is investment company sales literature, rather than an advertisement for the adviser's services under Rule 206(4)-1. In reaching its position, the staff indicated that it does not view documents relating specifically to one or more investment companies, such as prospectuses, advertisements or sales literature, as advertisements for investment advisers unless they are directed by the adviser to existing or new clients or refer to advisory services that are offered to such persons. The staff noted that the portfolio transaction information reflects only services provided to the funds and does not refer to services provided to other advisory clients. Alexander C. Gavis Assistant Counsel Attachment Note: Not all recipients of this memo will receive an attachment. If you wish to obtain a copy of the attachment referred to in this memo, please call the Institute's Information Resource Center at (202)326-8304, and ask for this memo's attachment number: 7909.

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